

## Message Text

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ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DLOS-06 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05

NSF-01 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 SAL-01

FEA-01 OIC-02 SSO-00 NSCE-00 INRE-00 USIE-00 /118 R

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OES/OFA - M.BUSBY

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FM SECSTATE WASHDC

TO USMISSION EC BRUSSELS IMMEDIATE

INFO AMEMBASSY MADRID PRIORITY

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY COPENHAGEN

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MADRID FOR OES/OFA/FA - L. SNEAD

E.O. 11652: N/A

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TAGS: EFIS, EEC

SUBJECT: US/EC NEGOTIATIONS ON GOVERNING INTERNATIONAL  
FISHERIES AGREEMENT (GIFA)

REF: (A) THE HAGUE 6050 (B) STATE 255103

1. WE ARE PREPARED TO TREAT EC COUNCIL APPROVAL OF DIRECTIVES REPORTED PARA 2 REFTEL A, IF RATIFIED AS EXPECTED NOVEMBER 3, AS MANDATE TO NEGOTIATE FISHERIES AGREEMENT ON BEHALF OF MEMBER STATES, REALIZING THAT DIRECTIVES (WHICH WE PRESUME SIMPLY CONSTITUTE ACCEPTANCE OF COMMISSION PROPOSALS OF SEPTEMBER 23) ARE VAGUE AND DO NOT RESOLVE BASIC QUESTIONS OF EC ABILITY TO CARRY OUT OBLIGATIONS UNDER GIFA. A US FISHERIES TEAM IS CURRENTLY IN MADRID AND DISCUSSIONS COULD TAKE PLACE IN BRUSSELS NOVEMBER 8-10. FYI (WE ASSUME THAT CIRCULAR 175 AUTHORITY REQUESTED NOVEMBER 3 WILL HAVE BEEN APPROVED BY NOVEMBER 8). END FYI.

2. PLEASE ASCERTAIN ASAP WHETHER ABOVE MENTIONED DATES ARE ACCEPTABLE TO EC COMMISSION. IN DOING SO, YOU MAY POINT OUT THAT BECAUSE OF THE REQUIREMENTS OF THE LAW, OUR NEGOTIATING TEAMS ALREADY HAVE OBLIGATIONS WITH A NUMBER OF OTHER COUNTRIES WHICH MAY MAKE ALTERNATIVE DATES DIFFICULT TO SET. WE WOULD HOPE TO BE ABLE TO MOVE AS RAPIDLY AS

POSSIBLE INTO ACTUAL NEGOTIATIONS AND ULTIMATELY SIGNATURE OF AN AGREEMENT.

3. US TEAM WILL BE PREPARED TO DISCUSS ALL SUBSTANTIVE ASPECTS OF FISHERIES QUESTIONS, AND TO COMMENT ON INFORMAL COMMISSION COUNTERDRAFT GIFA PRESENTED TO US TEAM IN COURSE OF OCTOBER 20-22 DISCUSSION. WE WILL ALSO WISH TO RAISE QUESTION OF SALMON FISHING NEAR GREENLAND AND DETERMINE TO WHAT EXTENT, IF ANY, OVERSEAS POSSESSIONS OF EEC MEMBERS MAY AFFECT US FISHERIES INTERESTS.

4. US TEAM WILL INCLUDE LEGAL EXPERT, AND WE WOULD LIKE TO DISCUSS THE NATURE AND EXTENT OF THE EEC MANDATE AND THE ABILITY OF THE EEC TO UNDERTAKE COMMITMENTS REQUIRED LIMITED OFFICIAL USE

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BY FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976. IT WOULD BE HELPFUL IF EEC SIDE WERE TO HAVE LEGAL EXPERTS PRESENT TO DISCUSS THESE ISSUES. WE BELIEVE IT IS INCUMBENT UPON US TO ASCERTAIN THAT THE MANDATE HAS OR WILL PROVIDE THE EEC WITH THE NECESSARY AUTHORITY TO UNDERTAKE THE OBLIGATIONS REQUIRED UNDER THE ACT. DESPITE THE MANDATE IT MAY BE NECESSARY NOT ONLY FOR THE EEC ITSELF BUT THE DIRECTLY AFFECTED MEMBER STATES TO SIGN AND RATIFY

THE GIFA. (MISSION WILL RECALL THAT, FOR EXAMPLE, IN THE CASE OF THE MEDITERRANEAN POLLUTION CONVENTION BOTH EEC AND AFFECTED MEMBER STATES ARE PARTIES.)

5. BECAUSE OF THE IMPORTANCE WE ATTACH TO THESE ISSUES OF EEC COMPETENCY, WE BELIEVE IT WOULD BE USEFUL FOR US EC MISSION TO INFORMALLY GIVE APPROPRIATE EC OFFICIALS A LIST OF THE KINDS OF QUESTIONS WE WILL BE ASKING (PARA 6) IN ORDER TO FACILITATE THE PROGRESS OF OUR DISCUSSIONS. WE DO NOT, HOWEVER, EXPECT ANSWERS TO ALL THESE QUESTIONS AT AT THIS STAGE, AND WE WOULD NOT WANT EC INABILITY TO RESPOND COMPLETELY TO DELAY INITIATION OF DISCUSSIONS.

6. AMONG QUESTIONS WE WILL WISH TO EXPLORE ARE THE FOLLOWING: WHETHER EEC CAN ACKNOWLEDGE ON BEHALF OF ALL THE MEMBER STATES THE EXCLUSIVE FISHERIES MANAGEMENT AUTHORITY OF THE US AS SET FORTH IN P.L. 94-265; WHETHER IT CAN ASSURE THAT THE VESSELS OF EEC MEMBER STATES FISHING WITHIN US 200 MILE LIMIT WILL ABIDE BY ALL REGULATIONS AND REQUIREMENTS UNDER AGREEMENT AND THE LAW; WHETHER IT CAN ASSUME RESPONSIBILITY AS REQUIRED FOR THE LOSS OF OR DAMAGE TO US FISHING VESSELS, GEAR ETC.; WHETHER THE EEC CAN MEET THE ENFORCEMENT REQUIREMENTS SUCH AS CONSENT TO BOARDING AND INSPECTION, SEIZURE, ARREST, AND THE IMPOSITION OF POSSIBLE CRIMINAL PENALTIES AGAINST FISHING VESSELS OF EEC MEMBER STATES AND THEIR CREW MEMBERS; WHETHER THE EEC CAN

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PROVIDE RECIPROCITY TO THE NATIONALS AND VESSELS OF THE UNITED STATES IF THEY WISH TO FISH WITHIN THE FISHERY ZONES OF EEC MEMBER GOVERNMENTS; HOW WILL EEC ASSURE, FOR EXAMPLE, THAT A GERMAN FISHING VESSEL SUBJECT TO FINE IN FACT PAYS LIMITED OFFICIAL USE

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THE FINE, OR THAT VARIOUS AGENCIES OF THE AFFECTED MEMBER GOVERNMENT RESTRICT THEIR OWN FLAG VESSELS AS MAY BE REQUIRED UNDER THE AGREEMENT OR, IN THE ALTERNATIVE, GIVE THE EEC DIRECT AUTHORITY TO RESTRICT THOSE VESSELS. KISSINGER

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